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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/453,763	12/02/1999	MOTOKI KATO	450100-02054	3027
20999	7590	02/09/2004	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			NGUYEN, HANH N	
			ART UNIT	PAPER NUMBER
			2662	8

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/453,763

Applicant(s)

KATO, MOTOKI

Examiner

Hanh Nguyen

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 12/3/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13,19 and 56 is/are allowed.
- 6) ☒ Claim(s) 1-12,14-18,20-55 and 57-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10, 49-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 6 and 49, it is not clearly stated by "obtaining a maximum bit rate of said data stream **from maximum bit rate information**".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 14-18, 20-22, 29, 37, 41, 49-55 and 57-59 and 67 are rejected under 35 USC 103(a) as being unpatentable over **Minechika et al.** (US Pat. No. 6,014,494) in view of **Takeda et al.** (US Pat. No. 6,587,477 B1).

\*In claims 1, 6, 11, 17, 49 and 54, **Minechika et al.** discloses, in Fig.10, a reproducing circuit receiving data stream from a tape recording in figure 5. An extra header detection 36 (obtaining /reproducing means) detects maximum bit rate of data streams (obtaining a maximum

bit rate of data stream stored in a recording medium). See col.11, lines 52-60. The extra header 36 detects maximum bit rate header of data stream (see col.8, lines 45-48). **Minechika et al.** does not disclose setting a transmission bandwidth in accordance with the maximum bit rate of data stream; and outputting the data stream within the set bandwidth. **Takeda et al.** discloses, in Fig.1, a digital VCR receives an MPEG transport stream (receiving a data stream) from a turner 126. Bandwidth detection means 101 detects and extracts transmission rate of the MPEG transport stream (See fig.10). A necessary bandwidth is calculated by a means 102 ( setting the transmission bandwidth) based on the transmission rate determined by Fig.11. The receiver 125 receives the transport streams attached with the necessary band with from the transmitting medium 114 (outputting the data stream within the set bandwidth). See col.10, lines 55-60. In the receiver 125, the transport stream included in data 122 is recorded at a recording apparatus 128 or reproduced into video/audio signals at reproducing apparatus 129 (recording and reproducing the data streams with the attached maximum bit rate). See col.13, lines 1-5. Therefore, it would have been obvious to one ordinary skill in the art to combine the **Takeda et al.** with **Minechika et al.** by applying the means 101, 102 into the **Minechika** to extract maximum transmission rate of data stream and determine the required bandwidth needed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 23, 30, 45 and 60 are rejected under 35 USC 102(e) as being anticipated by **Minechika et al.** (US Pat. No. 6,014,494).

\*In claims 23, 30, 45 and 60, **Minechika et al.** discloses, in Fig.5, a recording circuit receiving MPEG bit stream (receiving a data stream). The MPEG bit stream is added with maximum bit rate which is checked by a bit rate check circuit (obtaining a maximum bit rate of the data stream). The bit stream is recorded by a tape recording (recording data stream and maximum bit rate on a recording medium). See col.8, lines 33-55.

\*In claims 37, 41 and 67, the subject matters of these claims are similar to claims 1 and 23.

\*In claims 2, 7 and 50, **Minecika et al.** discloses, in Fig.5, MPEG bit stream is inputted to the recording circuit ( data stream conforms to a MPEG standard).

\* In claims 3, 8, 28, 35, 51 and 65, **Takeda et al.** discloses in, col.1, lines 55-65, that when a broadcast signal is received, a specific stream is selected and recorded (data stream is a partial transport stream).

In claims 4, 9 and 52, **Takeda et al.** discloses the transmitting medium 114 is a IEEE P1394 high speed interface used to transport data stream (IEEE 1394 digital interface standard). See col.2, lines 35-40.

In claims 5 and 10, **Minecika et al.** discloses MPEG bit stream with maximum bit rate header (outputting means for outputting information indicative of maximum rate). See col.8, lines 45-50.

In claims 12, 18 and 55, **Minecika et al.** discloses , in Fig.5, a mixing circuit 3 determines particular areas, recognizes data to be recorded (means for providing control information). See col.8, lines 37-40.

In claims 14, 15, 20, 21, 25, 26, 32, 33, 46, 47, 57, 58, 62 and 63, **Takeda et al.** discloses the received stream is stored in the buffer and is read from here at the leak rate (recording apparatus output leak bit rate). See col.1, line 65 to col.2, line 3. The buffer has a size expressed in the data stream (leak buffer size).

In claim 48, the limitation of this claim has been addressed in claim 1.

In claims 24, 31 and 61, **Takeda et al.** discloses, in Fig.12, a smoothing buffer 21 is included in processing means 130 and 118 respectively stores received transport stream packet (buffer means for storing received data streams). See col. 17, lines 40-45. The processing means 118 directs to stop recording action when the means 119 detects there is no data received from apparatus 124 (controlling the recording means so as to stop recording of data stream when the buffer is empty). See col.13, lines 7-14 & 18-23.

In claims 16, 22, 27, 34, 59 and 64, **Takeda et al.** discloses, in Fig.1, a playback apparatus 127 reproduces transport stream 108 (reproducing means for reproducing broadcast provider information). See col.10, lines 22-27.

In claims 29, 36 and 66, **Takeda et al.** discloses, in Fig.12, a cycle time register 26 that set a clock time (obtaining a standard reference time). A time stamp of the transmission is generated at means 23 based on a time value set by means 26 (generating a time stamp with the standard reference time). The input transport stream packet is added with the transmission time stamp at means 24 (means for adding the time stamp to partial data stream). See col.17, lines 20-45.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 23, 30, 45 and 60 are rejected under 35 USC 102(e) as being anticipated by **Minechika et al.** (US Pat. No. 6,014,494).

\*In claims 23, 30, 45 and 60, **Minechika et al.** discloses, in Fig.5, a recording circuit receiving MPEG bit stream (receiving a data stream). The MPEG bit stream is added with maximum bit rate which is checked by a bit rate check circuit (obtaining a maximum bit rate of the data stream). The bit stream is recorded by a tape recording (recording data stream and maximum bit rate on a recording medium). See col.8, lines 33-55.

Claims 38-40, 42-44 and 68-70 are rejected under 35 USC 103(a) as being unpatentable over **Minechika et al.** (US Pat. No. 6,014,494) in view of **Takeda et al.** (US Pat. No. 6,587,477 B1), and further in view of **Itakura et al.** (US Pat. No. 5,901,149).

In claims 38, 42 and 68, **Minechika et al.** discloses recording and reproducing the data streams with the attached maximum bit rate as discribed in claims 1, 11. **Minechika et al.** does not disclose a decoder outputting data streams. **Itakura et al.** discloses, in Fig.1, a decoder 4 decomposes received packet to extract video and audio streams (a decoder outputting data streams). See col.9, lines 21-35. Therefore, it would have been obvious to use the decoder 4 of **Itakura et al.** into the receiver 125 of **Minechika et al.** so that the original video /audio signals can be retrieved and reproduced.

In claims 39, 43 and 69, the limitations of these claims have been addressed in claim 1.

In claims 40 and 44, the limitations of these claims have been addressed in claim 29.

In claim 70, the limitations of this claim have been substantially addressed in claim 29. But **Minechika et al.** does not disclose a phase-looked loop circuit. **Itakura et al.** discloses, in Fig.1, a PLL circuit 12 (a phase-look loop circuit). See col.9, lines 30-35. Therefore, it would



have been obvious to use the PLL circuit 12 of **Itakura et al.** in the transmitting apparatus 124 of Minechika **et al.** to generate a clock signal in synchronization with the time stamp.

***Allowable Subject Matter***

Claims 13, 19 and 56 are allowed over the prior art.

The following is an examiner's statement of reasons for allowance:

In claims 13, 19 and 56, the prior art does not disclose a comparing means for comparing said time stamp and the counted pulse value and output control means for controlling the output of said data stream in response to a comparison result from said comparison means.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

Applicant's arguments with respect to claims 1-12, 14-16, 17, 18, 20-55 and 57-70 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takeda et al. (US Pat. No. 6,577,646 B2) discloses Data Transmitting Apparatus, Data Receiving and Data Transmission Control Apparatus.

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Lyons et al. (US Pat. No. 6,101,195) discloses Timing Correction Method and Apparatus.

Takeda et al. (US Pat. No. 6,567,421 B2) discloses Data Transmitting Apparatus, Data Receiving Apparatus and Data Transmission Control Apparatus.

Leske (US Pat. No. 5,473,385) discloses Clock Correction in a Video data Decoder Using Video Synchronization Signals.

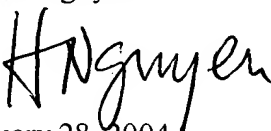
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 703 306-5445. The examiner can normally be reached on Monday-Friday 8:30 AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703 306-4744. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9314 for regular communications and 703 308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-4700.

Fax: (703) 872-9314

Hanh Nguyen

A handwritten signature in black ink, appearing to read 'HNguyen', written over the printed name and date.

January 28, 2004